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7 JOHN FRATUS,  
8 Plaintiff,  
9 v.  
10 WEBB, et al.,  
11 Defendants.

Case No. 24-cv-03467 EJD (PR)

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**ORDER OF SERVICE ON  
DEFENDANT Y. CAMPOS;  
DIRECTING DEFENDANT TO FILE  
DISPOSITIVE MOTION OR  
NOTICE REGARDING SUCH  
MOTION; INSTRUCTIONS TO  
CLERK**

20 Plaintiff, a state prisoner, filed the instant pro se civil rights action pursuant to 42 U.S.C. § 1983 against prison staff at Salinas Valley State Prison (“SVSP”) where he was previously housed. Dkt. No. 1. The Court found the complaint stated cognizable claims and ordered service on the named defendants through the CDCR’s e-service program. Dkt. No. 15 at 4. In response, the CDCR reported that one of the defendants, Nurse Yessenia Campos, has not been served. Dkt. No. 18. Accordingly, the Court will order service on Nurse Campos at the address provided by the CDCR.

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**CONCLUSION**

For the reasons set forth above, the Court orders as follows:

1. The Clerk of the Court shall mail a Notice of Lawsuit and Request for Waiver of Service of Summons, two copies of the Waiver of Service of Summons, a copy of the complaint, Dkt. No. 1, all attachments thereto, a copy of the “Order of Service,” Dkt. No. 15, and a copy of this order upon Defendant Yessenia Campos at the address filed under seal by the CDCR. Dkt. No. 18. **The Clerk shall ensure that the address is not disclosed to Plaintiff or the public.** The Clerk shall also mail a copy of this order to Plaintiff.

1       2. Defendant is cautioned that Rule 4 of the Federal Rules of Civil  
2 Procedure requires them to cooperate in saving unnecessary costs of service of the  
3 summons and the amended complaint. Pursuant to Rule 4, if Defendant, after being  
4 notified of this action and asked by the Court, on behalf of Plaintiff, to waive service of the  
5 summons, fail to do so, they will be required to bear the cost of such service unless good  
6 cause shown for their failure to sign and return the waiver form. If service is waived, this  
7 action will proceed as if Defendant had been served on the date that the waiver is filed,  
8 except that pursuant to Rule 12(a)(1)(B), Defendant will not be required to serve and file  
9 an answer before **sixty (60) days** from the day on which the request for waiver was sent.  
10 (This allows a longer time to respond than would be required if formal service of summons  
11 is necessary.) Defendant is asked to read the statement set forth at the foot of the waiver  
12 form that more completely describes the duties of the parties with regard to waiver of  
13 service of the summons. If service is waived after the date provided in the Notice but  
14 before Defendant has been personally served, the Answer shall be due sixty (60) days from  
15 the date on which the request for waiver was sent or twenty (20) days from the date the  
16 waiver form is filed, whichever is later.

17       3. No later than **ninety-one (91) days** from the date this order is filed,  
18 Defendant shall file a motion for summary judgment or other dispositive motion with  
19 respect to the claims in the complaint found to be cognizable above.

20       a. Any motion for summary judgment shall be supported by adequate  
21 factual documentation and shall conform in all respects to Rule 56 of the Federal Rules of  
22 Civil Procedure. Defendants are advised that summary judgment cannot be granted, nor  
23 qualified immunity found, if material facts are in dispute. If any Defendant is of the  
24 opinion that this case cannot be resolved by summary judgment, he shall so inform the  
25 Court prior to the date the summary judgment motion is due.

26       b. **In the event Defendants file a motion for summary judgment, the**  
27 **Ninth Circuit has held that Plaintiff must be concurrently provided the appropriate**  
28 **warnings under Rand v. Rowland, 154 F.3d 952, 963 (9th Cir. 1998) (en banc). See**

1        **Woods v. Carey, 684 F.3d 934, 940 (9th Cir. 2012).**

2        4. Plaintiff's opposition to the dispositive motion shall be filed with the Court  
3 and served on Defendants no later than **twenty-eight (28) days** from the date Defendants'  
4 motion is filed.

5        Plaintiff is also advised to read Rule 56 of the Federal Rules of Civil Procedure and  
6 Celotex Corp. v. Catrett, 477 U.S. 317 (1986) (holding party opposing summary judgment  
7 must come forward with evidence showing triable issues of material fact on every essential  
8 element of his claim). Plaintiff is cautioned that failure to file an opposition to  
9 Defendants' motion for summary judgment may be deemed to be a consent by Plaintiff to  
10 the granting of the motion, and granting of judgment against Plaintiff without a trial. See  
11 Ghazali v. Moran, 46 F.3d 52, 53–54 (9th Cir. 1995) (per curiam); Brydges v. Lewis, 18  
12 F.3d 651, 653 (9th Cir. 1994).

13        5. Defendants shall file a reply brief no later than **fourteen (14) days** after  
14 Plaintiff's opposition is filed.

15        6. The motion shall be deemed submitted as of the date the reply brief is due.  
16 No hearing will be held on the motion unless the Court so orders at a later date.

17        7. All communications by the Plaintiff with the Court must be served on  
18 Defendants, or Defendants' counsel once counsel has been designated, by mailing a true  
19 copy of the document to Defendants or Defendants' counsel.

20        8. Discovery may be taken in accordance with the Federal Rules of Civil  
21 Procedure. No further court order under Federal Rule of Civil Procedure 30(a)(2) or Local  
22 Rule 16-1 is required before the parties may conduct discovery.

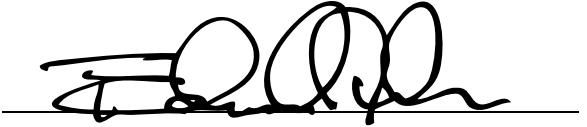
23        9. It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the  
24 court informed of any change of address and must comply with the court's orders in a  
25 timely fashion. Failure to do so may result in the dismissal of this action for failure to  
26 prosecute pursuant to Federal Rule of Civil Procedure 41(b).

27        10. Extensions of time must be filed no later than the deadline sought to be  
28 extended and must be accompanied by a showing of good cause.

1           **IT IS SO ORDERED.**

2           Dated: June 3, 2025

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EDWARD J. DAVILA  
United States District Judge